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Opinion No. 80-506—June 19, 1980.

SUBJECT: FINANCING OF REDEVELOPMENT PROJECT—A redevelopment agency may use the proceeds from the sale of otherwise unencumbered property acquired with tax increment revenues to help finance a redevelopment project other than the project from whose area the revenues were initially derived.

Requested by: ASSEMBLYMAN, FORTY-FIRST DISTRICT

Opinion by: GEORGE DEUKMEJIAN, Attorney General
Rodney Lilyquist, Jr., Deputy

The Honorable Patrick J. Nolan, Assemblyman, Forty-First District, has requested an opinion on the following question:

May a redevelopment agency use the proceeds from the sale of property acquired with tax increment revenues to help finance a redevelopment project other than the project from whose area the revenues were initially derived?

CONCLUSION

A redevelopment agency may use the proceeds from the sale of otherwise unencumbered property acquired with tax increment revenues to help finance a redevelopment project other than the project from whose area the revenues were initially derived.

ANALYSIS

Under the Community Redevelopment Law (Health and Safety Code §§ 33000-33738),¹ the governing body of a community may prepare, adopt, and implement a redevelopment plan for the elimination of blighted areas within the community. (*Redevelopment Agency v. Malaki* (1963) 216 Cal. App. 2d 480, 482; *Redevelopment Agency v. Hayes* (1954) 122 Cal. App. 2d 777, 800-802; Jacobs & Levine, *Redevelopment: Making Misused & Disused Land Available and Usable* (1957) 8 Hastings L.J. 241, 250-253.)

At any one time, a redevelopment agency may have in its possession funds obtained from numerous sources. Under the statutory scheme, it may receive grants or loans from the city or county creating it, from the state, federal government or other public entities, or it may receive grants or loans from private corporations or individuals. (§§ 33132, 33343, 33369, 33600, 33601.) Specific provisions of the law relate to a redevelopment revolving fund established by the city or county (§§ 33520-33626), the issuance of bonds by the city or county (§§ 33621, 33630), the issuance of bonds by the agency (§§ 33341, 33640, 33641), and the levy of taxes (§§ 33670, 33675), among other sources of funds.

¹ All unidentified statutory references hereinafter are to the Health and Safety Code.

Under the legislation, taxes are levied upon the taxable property in a redevelopment project each year after a redevelopment plan has been approved and are divided, as the assessed valuation increases, between the appropriate taxing agencies involved and the redevelopment agency until the agency's indebtedness incurred in financing the project has been paid.²

The question presented for analysis concerns whether a redevelopment agency may help finance one redevelopment project with the proceeds from the sale of property acquired with tax increment funds and located in another project area. We conclude that it may under certain conditions.

We note first that the Legislature has given specific authority to a redevelopment agency to acquire property (§§ 33334.2, 33342, 33395, 33396) and dispose of it. (§§ 33335, 33430, 33431, 33432, 33442, 33443.) Also, an agency may receive financial assistance for a redevelopment project through the use of either public or private funds. Section 33600 provides, "An agency may accept financial or other assistance from any public or private source, for the agency's activities, powers, and duties." Section 33601 states, "An agency may borrow money or accept financial or other assistance from the state or the federal government or any other public agency for any redevelopment project within its area of operation, . . . An agency may borrow money . . . or accept financial or other assistance from any private lending institution for any redevelopment project. . . ."

As to whether an agency may give financial assistance from one redevelopment project to another through the use of proceeds from the sale of property, several provisions of the Community Redevelopment Law are applicable to our discussion.

Section 33600 authorizes an agency to "expend any funds" received "from any public or private source" "for any of the purposes of [the Community Redevelopment Law]." As a general rule, therefore, as long as the legislative goals of the statutory scheme are being effectuated, funds from one project may be used to help finance another project.

More specifically, section 33641 provides:

"An agency may issue such types of bonds as it may determine including bonds on which the principal and interest are payable:

"(a) Exclusively from the income and revenues of the redevelopment projects financed with the proceeds of the bonds, or with such proceeds together with financial assistance from the state or federal government in aid of the projects.

² The recent adoption of article XIII A of the California Constitution has significantly affected the traditional tax increment method of financing redevelopment projects by its provisions generally limiting (1) the maximum amount of any ad valorem tax on real property to one percent and (2) the increase in the full cash value base from year to year to two percent (unless the property has been purchased, newly constructed, or has changed ownership).

"(b) *Exclusively from the income and revenues of certain designated redevelopment projects whether or not they were financed in whole or in part with the proceeds of the bonds.*

"(c) In whole or in part from taxes allocated to, and paid into a special fund of, the agency pursuant to the provisions of Article 6 (commencing with Section 33670) of this chapter.

"(d) From its *revenues generally*.

"(e) From any contributions or other financial assistance from the state or federal government.

"(f) By any combination of these methods." (Emphasis added.)
Section 33642 states:

"Any of such bonds may be additionally secured by a pledge of *any revenues or by an encumbrance* by mortgage, deed of trust, or otherwise of *any redevelopment project or other property of the agency* or by a pledge of the taxes referred to in subdivision (c) of Section 33641, or by any combination thereof." (Emphasis added.)

These statutes, taken together, authorize a redevelopment agency to use the "income and revenues" of one redevelopment project to secure and pay off the bonds issued for another project area.³ The terms "income and revenues" are not restricted, and we normally construe statutes according to the ordinary and usual import of the language used. (See *People v. Belleci* (1979) 24 Cal. 3d 879, 884.) Here, the sale of a redevelopment project property by an agency would generate "income and revenues" within the common definitions of the terms.

On occasion, however, the plain and unambiguous meaning of a statute has not been followed by the courts where it would frustrate the manifest purposes of the legislation as a whole or lead to absurd results. (See *Younger v. Superior Court* (1978) 21 Cal. 3d 102, 113-114.) Neither consequence appears to be threatened under the circumstances presented to us.

We are not dealing here with funds being used for purposes unrelated to the Community Redevelopment Law. At all times the expenditures will promote the goals of community redevelopment as expressed by the Legislature. The only concern is whether one project area may "support" another project area, and sections 33641 and 33642 plainly allow such support in carrying out the common goals of the programs.

It has been suggested nonetheless that tax increment revenues may only be used within the project area from which the revenues were initially collected, and

³ Of course, if an agency's bonds are secured by an encumbrance upon particular property, any sale of such property would be subject to the encumbrance. An agency may choose to contract with bondholders through its bond resolution that the proceeds from the sale of particular property will be used to repay its bonds.

thus the sales proceeds of any property acquired with such revenues should be similarly restricted. We do not agree.

First of all, the Legislature has specifically authorized under certain conditions the expenditure of tax increment funds in areas outside the project area from which derived; such funds need not necessarily be spent within the area of another particular project but may be spent anywhere within the territorial jurisdiction of the agency. (§§ 33334.2, 33334.5, 33447, 33449.) Second, the Legislature has restricted the broad grant of authority to spend funds (§ 33600) in only limited situations (e.g., § 33624), evidencing an intent to grant wide fiscal discretion to an agency. Third, as a practical matter, an agency may own property near the completion of a redevelopment project and without any further improvements to be made within the project area. Fourth, the Legislature's infrequent restriction on the use of funds (e.g., § 33670, subd. (b)) demonstrates an ability to accomplish this result when it so intends, and here no such intent can be found. (See *Safer v. Superior Court* (1975) 15 Cal. 3d 230, 236.)

We also note that the Legislature has given redevelopment agencies authority to invest available funds "in properties or securities in which savings banks may legally invest money subject to their control." (§ 33603.) Pursuant to section 33663, a savings bank may invest "in any bonds or other obligations issued by any agency." The later statute also authorizes all "public bodies" to so invest, thus including redevelopment agencies directly. (§ 33100.) Hence, the proceeds from the sale of property in one project area may be invested in the bonds issued by another redevelopment project. (See also § 33664.)

Accordingly, we conclude that a redevelopment agency has authority to use the proceeds from the sale of otherwise unencumbered property located in one redevelopment project area and acquired with tax increment revenues (1) to pay off bonds issued for another redevelopment project, (2) as security for the payment of bonds issued for another redevelopment project, (3) to invest in bonds issued for another redevelopment project, and (4) in any other manner that would effectuate the purposes of the Community Redevelopment Law.